

REMARKS

Claims 1-23 are pending in the present application. Claims 1-23 stand rejected. Without admitting the propriety of the rejections, Claims 1 and 18 have been amended to more particularly point out and claim aspects of the present disclosure.

Applicants thank the Examiner for a thorough and thoughtful review of the present application. Based on the amendments set forth above and the remarks set forth below, applicants submit that the claims are now in condition for allowance. Accordingly, reconsideration and allowance of all pending claims is respectfully requested.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1, 5, 10, 12, 13, and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,480,535, issued to Jaxmar et al., ("Jaxmar et al."). Anticipation requires the presence of each and every claim limitation in a single prior art reference. A claim is anticipated only if each and every element, as set forth in the claim, is found either expressly or inherently in a single prior art reference. *E.g. Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). For the reasons set forth below, applicants respectfully submit that Jaxmar et al., does not teach each and every element of Claim 1 as amended.

As amended, Claim 1 generally recites an apparatus for treatment of foodstuffs for processing and subsequent drying. The apparatus comprises an endless conveyor belt which along part of its length follows a helical path to form a stack, the helical path defining a central space in the stack. The conveyor belt has passages for letting a flow of gaseous medium in the vertical as well as horizontal direction through the stack. The apparatus further comprises "an end portion of the stack, in which the stack is vertically surrounded by an encapsulation *that is essentially tight in the horizontal direction, the encapsulation being formed by an outer*

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{LLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

circumferential wall and an inner circumferential wall vertically surrounding the end portion of the stack". The apparatus further comprises a first supply of a first gaseous medium to the central space, and a second supply of a second gaseous medium to the encapsulation. The encapsulation is arranged to direct the flow of the second gaseous medium in such a manner that it is passed in the vertical direction from said encapsulation to the rest of the stack. Support for the amendment may be found on page 9, lines 30-31 of the specification, where it states that "[t]he encapsulation 22 is essentially tight in the horizontal direction." Further, as stated on page 12, lines 23-26, "[t]he encapsulation is thus essentially tight in the horizontal direction in the portion of the stack covered by the inner circumferential wall." Moreover, page 12, lines 24-26 further states that "[t]he encapsulation can be formed as one outer and one inner circumferential wall . . . vertically surrounding a portion of the stack."

Jaxmar et al., does not teach or render obvious an apparatus for treatment of foodstuffs for processing and subsequent drying comprising "an end portion of the stack, in which the stack is vertically surrounded by an encapsulation that is essentially tight in the horizontal direction, the encapsulation being formed by an outer circumferential wall and an inner circumferential wall vertically surrounding the end portion of the stack." In this regard, the design of Jaxmar et al., is adapted to pass a larger amount of air over the product in the first stage of a freezing cycle, and decrease successively as the heat emission from the product diminishes. See Jaxmar et al., column 1, lines 21-31. Jaxmar et al., discloses an endless conveyor belt 1 which along part of its length follows a helical path to form a stack. Figure 1 indicates that the helical path is defined by the inner cylinder 3 and outer cylinder 5 along its entire vertical length. Further, the inner cylinder 3 is perforated along its entire vertical length to permit flow of gaseous material in the horizontal direction in the stack, thus providing a single zone in which air passing over the product in the stack is gradually reduced. To this point, curves C in Figure 1 indicate the

increasing amount of air being horizontally supplied to the stack at lower points along the entire vertical length of the inner cylinder 3. Therefore, Jaxmar et al., does not disclose or suggest an *end portion* of the stack, in which the stack is vertically surrounded by an encapsulation. Moreover, Jaxmar et al., fails to disclose or suggest "an encapsulation that is *essentially tight* in the horizontal direction, the encapsulation being formed by an outer circumferential wall and an inner circumferential wall vertically surrounding the *end portion* of the stack," as recited in Claim 1.

It is clear for at least this reason that Jaxmar et al., does not teach "each and every element" of Claim 1 as amended. Accordingly, applicants request withdrawal of the rejections to Claim 1 and its associated dependent Claims 5, 10, 12, 13, and 15.

Claim Rejections Under 35 U.S.C. § 103(a)

Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jaxmar et al., Claims 18-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jaxmar et al., in view of U.S. Patent No. 5,078,120 issued to Hwang ("Hwang"). Claims 2-4, 11, and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jaxmar et al., as applied to Claim 1, in further view of Hwang. Claims 6-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jaxmar et al., as applied to Claim 1, in further view of U.S. Patent No. 3,443,505 issued to Kaufman ("Kaufman"). Claims 8-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jaxmar et al., as applied to Claim 1, in further view of U.S. Patent No. 5,515,755 issued to Crump et al ("Crump et al."). Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jaxmar et al., as applied to Claim 1, in further view of U.S. Patent No. 5,205,135 issued to Lang ("Lang").

To establish a *prima facie* case of obviousness, the cited prior art references must teach or suggest all of the claim elements. In addition, there must be some apparent reason, either in the

references or in the knowledge of one skilled in the art, to modify the references or to combine the elements of multiple references with a reasonable chance of success.

As stated above, Jaxmar et al., fails to disclose or suggest "an end portion of the stack, in which the stack is vertically surrounded by an encapsulation that is *essentially tight* in the horizontal direction, the encapsulation being formed by an outer circumferential wall and an inner circumferential wall vertically surrounding the *end portion* of the stack," as currently recited in Claim 1. None of Hwang, Kaufman, Crump or Lang can cure these deficiencies of Jaxmar. In particular, none of these references remotely teach or suggest that an end portion of a stack is vertically surrounded by an encapsulation that is essentially tight in the horizontal direction. Thus, applicants respectfully submit that Jaxmar et al., in view of any of these cited references, does not teach or render obvious all of the aspects of Claims 2-4, 6-9, 11, 16-17 and 23.

In regard to Claims 18-22, as amended, Claim 18 generally recites a method for treatment of foodstuffs for the purpose of processing and drying. The method in amended Claim 18 includes "a lower non-encapsulated stack portion and, adjacent thereto, an upper stack portion which is encapsulated in the vertical direction by an encapsulation *that is essentially tight in the horizontal direction, the encapsulation being formed by an outer circumferential wall and an inner circumferential wall vertically surrounding the upper stack portion.*" As stated above, neither Jaxmar et al., nor Hwang, alone or in combination, disclose or suggest an upper stack portion which is encapsulated in the vertical direction by an encapsulation that is essentially tight in the horizontal direction. Therefore, for at least these reasons the cited references do not render obvious Claim 18 or its associated dependent Claims 19-22. Accordingly, withdrawal of the rejections is respectfully requested.

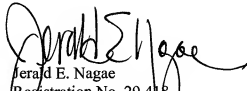
LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{LLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

CONCLUSION

In view of the foregoing amendments and remarks, applicants respectfully submit that Claims 1-23 recite combinations of features neither disclosed nor rendered obvious by the cited prior art. Therefore, applicants respectfully request allowance of all pending claims. The Examiner is encouraged to contact the undersigned with any remaining questions.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}


Gerald E. Nagae
Registration No. 29,418
Direct Dial No. 206.695.1783

JEN:jvb

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100